



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB3856

by Rep. Justin Slaughter

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-1	from Ch. 38, par. 16-1
720 ILCS 5/16-25	
720 ILCS 5/21-1	from Ch. 38, par. 21-1

Amends the Criminal Code of 2012. Increases the threshold amount that enhances theft and retail theft from a misdemeanor to a felony or to a higher class of felony from \$500 for theft and \$300 for retail theft, and \$150 for motor fuel theft to \$2,500 other than for motor fuel theft, and \$2,000 for motor fuel theft. Eliminates the offense of theft by emergency exit. Changes the threshold for criminal damage to property from \$500 to \$2,000. Effective immediately.

LRB100 10586 RLC 20804 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing  
5 Sections 16-1, 16-25, and 21-1 as follows:

6 (720 ILCS 5/16-1) (from Ch. 38, par. 16-1)

7 Sec. 16-1. Theft.

8 (a) A person commits theft when he or she knowingly:

9 (1) Obtains or exerts unauthorized control over  
10 property of the owner; or

11 (2) Obtains by deception control over property of the  
12 owner; or

13 (3) Obtains by threat control over property of the  
14 owner; or

15 (4) Obtains control over stolen property knowing the  
16 property to have been stolen or under such circumstances as  
17 would reasonably induce him or her to believe that the  
18 property was stolen; or

19 (5) Obtains or exerts control over property in the  
20 custody of any law enforcement agency which any law  
21 enforcement officer or any individual acting in behalf of a  
22 law enforcement agency explicitly represents to the person  
23 as being stolen or represents to the person such

1 circumstances as would reasonably induce the person to  
2 believe that the property was stolen, and

3 (A) Intends to deprive the owner permanently of the  
4 use or benefit of the property; or

5 (B) Knowingly uses, conceals or abandons the  
6 property in such manner as to deprive the owner  
7 permanently of such use or benefit; or

8 (C) Uses, conceals, or abandons the property  
9 knowing such use, concealment or abandonment probably  
10 will deprive the owner permanently of such use or  
11 benefit.

12 (b) Sentence.

13 (1) Theft of property not from the person and not  
14 exceeding \$2,500 ~~\$500~~ in value is a Class A misdemeanor.

15 (1.1) Theft of property not from the person and not  
16 exceeding \$2,500 ~~\$500~~ in value is a Class 4 felony if the  
17 theft was committed in a school or place of worship or if  
18 the theft was of governmental property.

19 (2) A person who has been convicted of theft of  
20 property not from the person and not exceeding \$2,500 ~~\$500~~  
21 in value who has been previously convicted of any type of  
22 theft, robbery, armed robbery, burglary, residential  
23 burglary, possession of burglary tools, home invasion,  
24 forgery, a violation of Section 4-103, 4-103.1, 4-103.2, or  
25 4-103.3 of the Illinois Vehicle Code relating to the  
26 possession of a stolen or converted motor vehicle, or a

1 violation of Section 17-36 of the Criminal Code of 1961 or  
2 the Criminal Code of 2012, or Section 8 of the Illinois  
3 Credit Card and Debit Card Act is guilty of a Class 4  
4 felony.

5 (3) (Blank).

6 (4) Theft of property from the person not exceeding  
7 \$2,500 ~~\$500~~ in value, or theft of property exceeding \$2,500  
8 ~~\$500~~ and not exceeding \$10,000 in value, is a Class 3  
9 felony.

10 (4.1) Theft of property from the person not exceeding  
11 \$2,500 ~~\$500~~ in value, or theft of property exceeding \$2,500  
12 ~~\$500~~ and not exceeding \$10,000 in value, is a Class 2  
13 felony if the theft was committed in a school or place of  
14 worship or if the theft was of governmental property.

15 (5) Theft of property exceeding \$10,000 and not  
16 exceeding \$100,000 in value is a Class 2 felony.

17 (5.1) Theft of property exceeding \$10,000 and not  
18 exceeding \$100,000 in value is a Class 1 felony if the  
19 theft was committed in a school or place of worship or if  
20 the theft was of governmental property.

21 (6) Theft of property exceeding \$100,000 and not  
22 exceeding \$500,000 in value is a Class 1 felony.

23 (6.1) Theft of property exceeding \$100,000 in value is  
24 a Class X felony if the theft was committed in a school or  
25 place of worship or if the theft was of governmental  
26 property.

1           (6.2) Theft of property exceeding \$500,000 and not  
2           exceeding \$1,000,000 in value is a Class 1  
3           non-probationable felony.

4           (6.3) Theft of property exceeding \$1,000,000 in value  
5           is a Class X felony.

6           (7) Theft by deception, as described by paragraph (2)  
7           of subsection (a) of this Section, in which the offender  
8           obtained money or property valued at \$5,000 or more from a  
9           victim 60 years of age or older is a Class 2 felony.

10          (8) Theft by deception, as described by paragraph (2)  
11          of subsection (a) of this Section, in which the offender  
12          falsely poses as a landlord or agent or employee of the  
13          landlord and obtains a rent payment or a security deposit  
14          from a tenant is a Class 3 felony if the rent payment or  
15          security deposit obtained does not exceed \$500.

16          (9) Theft by deception, as described by paragraph (2)  
17          of subsection (a) of this Section, in which the offender  
18          falsely poses as a landlord or agent or employee of the  
19          landlord and obtains a rent payment or a security deposit  
20          from a tenant is a Class 2 felony if the rent payment or  
21          security deposit obtained exceeds \$500 and does not exceed  
22          \$10,000.

23          (10) Theft by deception, as described by paragraph (2)  
24          of subsection (a) of this Section, in which the offender  
25          falsely poses as a landlord or agent or employee of the  
26          landlord and obtains a rent payment or a security deposit

1 from a tenant is a Class 1 felony if the rent payment or  
2 security deposit obtained exceeds \$10,000 and does not  
3 exceed \$100,000.

4 (11) Theft by deception, as described by paragraph (2)  
5 of subsection (a) of this Section, in which the offender  
6 falsely poses as a landlord or agent or employee of the  
7 landlord and obtains a rent payment or a security deposit  
8 from a tenant is a Class X felony if the rent payment or  
9 security deposit obtained exceeds \$100,000.

10 (c) When a charge of theft of property exceeding a  
11 specified value is brought, the value of the property involved  
12 is an element of the offense to be resolved by the trier of  
13 fact as either exceeding or not exceeding the specified value.

14 (d) Theft by lessee; permissive inference. The trier of  
15 fact may infer evidence that a person intends to deprive the  
16 owner permanently of the use or benefit of the property (1) if  
17 a lessee of the personal property of another fails to return it  
18 to the owner within 10 days after written demand from the owner  
19 for its return or (2) if a lessee of the personal property of  
20 another fails to return it to the owner within 24 hours after  
21 written demand from the owner for its return and the lessee had  
22 presented identification to the owner that contained a  
23 materially fictitious name, address, or telephone number. A  
24 notice in writing, given after the expiration of the leasing  
25 agreement, addressed and mailed, by registered mail, to the  
26 lessee at the address given by him and shown on the leasing

1 agreement shall constitute proper demand.

2 (e) Permissive inference; evidence of intent that a person  
3 obtains by deception control over property. The trier of fact  
4 may infer that a person "knowingly obtains by deception control  
5 over property of the owner" when he or she fails to return,  
6 within 45 days after written demand from the owner, the  
7 downpayment and any additional payments accepted under a  
8 promise, oral or in writing, to perform services for the owner  
9 for consideration of \$3,000 or more, and the promisor knowingly  
10 without good cause failed to substantially perform pursuant to  
11 the agreement after taking a down payment of 10% or more of the  
12 agreed upon consideration. This provision shall not apply where  
13 the owner initiated the suspension of performance under the  
14 agreement, or where the promisor responds to the notice within  
15 the 45-day notice period. A notice in writing, addressed and  
16 mailed, by registered mail, to the promisor at the last known  
17 address of the promisor, shall constitute proper demand.

18 (f) Offender's interest in the property.

19 (1) It is no defense to a charge of theft of property  
20 that the offender has an interest therein, when the owner  
21 also has an interest to which the offender is not entitled.

22 (2) Where the property involved is that of the  
23 offender's spouse, no prosecution for theft may be  
24 maintained unless the parties were not living together as  
25 man and wife and were living in separate abodes at the time  
26 of the alleged theft.

1 (Source: P.A. 96-496, eff. 1-1-10; 96-534, eff. 8-14-09;  
2 96-1000, eff. 7-2-10; 96-1301, eff. 1-1-11; 96-1532, eff.  
3 1-1-12; 96-1551, eff. 7-1-11; 97-597, eff. 1-1-12; 97-1150,  
4 eff. 1-25-13.)

5 (720 ILCS 5/16-25)

6 Sec. 16-25. Retail theft.

7 (a) A person commits retail theft when he or she knowingly:

8 (1) Takes possession of, carries away, transfers or  
9 causes to be carried away or transferred any merchandise  
10 displayed, held, stored or offered for sale in a retail  
11 mercantile establishment with the intention of retaining  
12 such merchandise or with the intention of depriving the  
13 merchant permanently of the possession, use or benefit of  
14 such merchandise without paying the full retail value of  
15 such merchandise; or

16 (2) Alters, transfers, or removes any label, price tag,  
17 marking, indicia of value or any other markings which aid  
18 in determining value affixed to any merchandise displayed,  
19 held, stored or offered for sale in a retail mercantile  
20 establishment and attempts to purchase such merchandise at  
21 less than the full retail value with the intention of  
22 depriving the merchant of the full retail value of such  
23 merchandise; or

24 (3) Transfers any merchandise displayed, held, stored  
25 or offered for sale in a retail mercantile establishment



1 from the container in or on which such merchandise is  
2 displayed to any other container with the intention of  
3 depriving the merchant of the full retail value of such  
4 merchandise; or

5 (4) Under-rings with the intention of depriving the  
6 merchant of the full retail value of the merchandise; or

7 (5) Removes a shopping cart from the premises of a  
8 retail mercantile establishment without the consent of the  
9 merchant given at the time of such removal with the  
10 intention of depriving the merchant permanently of the  
11 possession, use or benefit of such cart; or

12 (6) Represents to a merchant that he, she, or another  
13 is the lawful owner of property, knowing that such  
14 representation is false, and conveys or attempts to convey  
15 that property to a merchant who is the owner of the  
16 property in exchange for money, merchandise credit or other  
17 property of the merchant; or

18 (7) Uses or possesses any theft detection shielding  
19 device or theft detection device remover with the intention  
20 of using such device to deprive the merchant permanently of  
21 the possession, use or benefit of any merchandise  
22 displayed, held, stored or offered for sale in a retail  
23 mercantile establishment without paying the full retail  
24 value of such merchandise; or

25 (8) Obtains or exerts unauthorized control over  
26 property of the owner and thereby intends to deprive the

1 owner permanently of the use or benefit of the property  
2 when a lessee of the personal property of another fails to  
3 return it to the owner, or if the lessee fails to pay the  
4 full retail value of such property to the lessor in  
5 satisfaction of any contractual provision requiring such,  
6 within 10 days after written demand from the owner for its  
7 return. A notice in writing, given after the expiration of  
8 the leasing agreement, by registered mail, to the lessee at  
9 the address given by the lessee and shown on the leasing  
10 agreement shall constitute proper demand.

11 (b) (Blank). ~~Theft by emergency exit. A person commits~~  
12 ~~theft by emergency exit when he or she commits a retail theft~~  
13 ~~as defined in subdivisions (a) (1) through (a) (8) of this~~  
14 ~~Section and to facilitate the theft he or she leaves the retail~~  
15 ~~mercantile establishment by use of a designated emergency exit.~~

16 (c) Permissive inference. If any person:

17 (1) conceals upon his or her person or among his or her  
18 belongings unpurchased merchandise displayed, held, stored  
19 or offered for sale in a retail mercantile establishment;  
20 and

21 (2) removes that merchandise beyond the last known  
22 station for receiving payments for that merchandise in that  
23 retail mercantile establishment,  
24 then the trier of fact may infer that the person possessed,  
25 carried away or transferred such merchandise with the intention  
26 of retaining it or with the intention of depriving the merchant

1 permanently of the possession, use or benefit of such  
2 merchandise without paying the full retail value of such  
3 merchandise.

4 To "conceal" merchandise means that, although there may be  
5 some notice of its presence, that merchandise is not visible  
6 through ordinary observation.

7 (d) Venue. Multiple thefts committed by the same person as  
8 part of a continuing course of conduct in different  
9 jurisdictions that have been aggregated in one jurisdiction may  
10 be prosecuted in any jurisdiction in which one or more of the  
11 thefts occurred.

12 (e) For the purposes of this Section, "theft detection  
13 shielding device" means any laminated or coated bag or device  
14 designed and intended to shield merchandise from detection by  
15 an electronic or magnetic theft alarm sensor.

16 (f) Sentence.

17 (1) A violation of any of subdivisions (a)(1) through  
18 (a)(6) and (a)(8) of this Section, the full retail value of  
19 which does not exceed \$2,500 ~~\$300~~ for property other than  
20 motor fuel or \$2,000 ~~\$150~~ for motor fuel, is a Class A  
21 misdemeanor. A violation of subdivision (a)(7) of this  
22 Section is a Class A misdemeanor for a first offense and a  
23 Class 4 felony for a second or subsequent offense. ~~Theft by~~  
24 ~~emergency exit of property, the full retail value of which~~  
25 ~~does not exceed \$300, is a Class 4 felony.~~

26 (2) A person who has been convicted of retail theft of

1 property under any of subdivisions (a)(1) through (a)(6)  
2 and (a)(8) of this Section, the full retail value of which  
3 does not exceed \$2,500 ~~\$300~~ for property other than motor  
4 fuel or \$2,000 ~~\$150~~ for motor fuel, and who has been  
5 previously convicted of any type of theft, robbery, armed  
6 robbery, burglary, residential burglary, possession of  
7 burglary tools, home invasion, unlawful use of a credit  
8 card, or forgery is guilty of a Class 4 felony. ~~A person  
9 who has been convicted of theft by emergency exit of  
10 property, the full retail value of which does not exceed  
11 \$300, and who has been previously convicted of any type of  
12 theft, robbery, armed robbery, burglary, residential  
13 burglary, possession of burglary tools, home invasion,  
14 unlawful use of a credit card, or forgery is guilty of a  
15 Class 3 felony.~~

16 (3) Any retail theft of property under any of  
17 subdivisions (a)(1) through (a)(6) and (a)(8) of this  
18 Section, the full retail value of which exceeds \$2,500 ~~\$300~~  
19 for property other than motor fuel or \$2,000 ~~\$150~~ for motor  
20 fuel in a single transaction, or in separate transactions  
21 committed by the same person as part of a continuing course  
22 of conduct from one or more mercantile establishments over  
23 a period of one year, is a Class 3 felony. ~~Theft by  
24 emergency exit of property, the full retail value of which  
25 exceeds \$300 in a single transaction, or in separate  
26 transactions committed by the same person as part of a~~

1 ~~continuing course of conduct from one or more mercantile~~  
2 ~~establishments over a period of one year, is a Class 2~~  
3 ~~felony.~~ When a charge of retail theft ~~of property or theft~~  
4 ~~by emergency exit~~ of property, the full value of which  
5 exceeds \$2,500 ~~\$300~~, is brought, the value of the property  
6 involved is an element of the offense to be resolved by the  
7 trier of fact as either exceeding or not exceeding \$2,500  
8 ~~\$300~~.

9 (Source: P.A. 97-597, eff. 1-1-12.)

10 (720 ILCS 5/21-1) (from Ch. 38, par. 21-1)

11 Sec. 21-1. Criminal damage to property.

12 (a) A person commits criminal damage to property when he or  
13 she:

14 (1) knowingly damages any property of another;

15 (2) recklessly by means of fire or explosive damages  
16 property of another;

17 (3) knowingly starts a fire on the land of another;

18 (4) knowingly injures a domestic animal of another  
19 without his or her consent;

20 (5) knowingly deposits on the land or in the building  
21 of another any stink bomb or any offensive smelling  
22 compound and thereby intends to interfere with the use by  
23 another of the land or building;

24 (6) knowingly damages any property, other than as  
25 described in paragraph (2) of subsection (a) of Section

1 20-1, with intent to defraud an insurer;

2 (7) knowingly shoots a firearm at any portion of a  
3 railroad train;

4 (8) knowingly, without proper authorization, cuts,  
5 injures, damages, defaces, destroys, or tampers with any  
6 fire hydrant or any public or private fire fighting  
7 equipment, or any apparatus appertaining to fire fighting  
8 equipment; or

9 (9) intentionally, without proper authorization, opens  
10 any fire hydrant.

11 (b) When the charge of criminal damage to property  
12 exceeding a specified value is brought, the extent of the  
13 damage is an element of the offense to be resolved by the trier  
14 of fact as either exceeding or not exceeding the specified  
15 value.

16 (c) It is an affirmative defense to a violation of  
17 paragraph (1), (3), or (5) of subsection (a) of this Section  
18 that the owner of the property or land damaged consented to the  
19 damage.

20 (d) Sentence.

21 (1) A violation of subsection (a) shall have the  
22 following penalties:

23 (A) A violation of paragraph (8) or (9) is a Class  
24 B misdemeanor.

25 (B) A violation of paragraph (1), (2), (3), (5), or  
26 (6) is a Class A misdemeanor when the damage to

1 property does not exceed \$2,000 ~~\$500~~.

2 (C) A violation of paragraph (1), (2), (3), (5), or  
3 (6) is a Class 4 felony when the damage to property  
4 does not exceed \$2,000 ~~\$500~~ and the damage occurs to  
5 property of a school or place of worship or to farm  
6 equipment or immovable items of agricultural  
7 production, including but not limited to grain  
8 elevators, grain bins, and barns or property which  
9 memorializes or honors an individual or group of police  
10 officers, fire fighters, members of the United States  
11 Armed Forces, National Guard, or veterans.

12 (D) A violation of paragraph (4) is a Class 4  
13 felony when the damage to property does not exceed  
14 \$10,000.

15 (E) A violation of paragraph (7) is a Class 4  
16 felony.

17 (F) A violation of paragraph (1), (2), (3), (5) or  
18 (6) is a Class 4 felony when the damage to property  
19 exceeds \$2,000 ~~\$500~~ but does not exceed \$10,000.

20 (G) A violation of paragraphs (1) through (6) is a  
21 Class 3 felony when the damage to property exceeds  
22 \$2,000 ~~\$500~~ but does not exceed \$10,000 and the damage  
23 occurs to property of a school or place of worship or  
24 to farm equipment or immovable items of agricultural  
25 production, including but not limited to grain  
26 elevators, grain bins, and barns or property which

1 memorializes or honors an individual or group of police  
2 officers, fire fighters, members of the United States  
3 Armed Forces, National Guard, or veterans.

4 (H) A violation of paragraphs (1) through (6) is a  
5 Class 3 felony when the damage to property exceeds  
6 \$10,000 but does not exceed \$100,000.

7 (I) A violation of paragraphs (1) through (6) is a  
8 Class 2 felony when the damage to property exceeds  
9 \$10,000 but does not exceed \$100,000 and the damage  
10 occurs to property of a school or place of worship or  
11 to farm equipment or immovable items of agricultural  
12 production, including but not limited to grain  
13 elevators, grain bins, and barns or property which  
14 memorializes or honors an individual or group of police  
15 officers, fire fighters, members of the United States  
16 Armed Forces, National Guard, or veterans.

17 (J) A violation of paragraphs (1) through (6) is a  
18 Class 2 felony when the damage to property exceeds  
19 \$100,000. A violation of paragraphs (1) through (6) is  
20 a Class 1 felony when the damage to property exceeds  
21 \$100,000 and the damage occurs to property of a school  
22 or place of worship or to farm equipment or immovable  
23 items of agricultural production, including but not  
24 limited to grain elevators, grain bins, and barns or  
25 property which memorializes or honors an individual or  
26 group of police officers, fire fighters, members of the



1 United States Armed Forces, National Guard, or  
2 veterans.

3 (2) When the damage to property exceeds \$10,000, the  
4 court shall impose upon the offender a fine equal to the  
5 value of the damages to the property.

6 (3) In addition to any other sentence that may be  
7 imposed, a court shall order any person convicted of  
8 criminal damage to property to perform community service  
9 for not less than 30 and not more than 120 hours, if  
10 community service is available in the jurisdiction and is  
11 funded and approved by the county board of the county where  
12 the offense was committed. In addition, whenever any person  
13 is placed on supervision for an alleged offense under this  
14 Section, the supervision shall be conditioned upon the  
15 performance of the community service.

16 The community service requirement does not apply when  
17 the court imposes a sentence of incarceration.

18 (4) In addition to any criminal penalties imposed for a  
19 violation of this Section, if a person is convicted of or  
20 placed on supervision for knowingly damaging or destroying  
21 crops of another, including crops intended for personal,  
22 commercial, research, or developmental purposes, the  
23 person is liable in a civil action to the owner of any  
24 crops damaged or destroyed for money damages up to twice  
25 the market value of the crops damaged or destroyed.

26 (5) For the purposes of this subsection (d), "farm

1           equipment" means machinery or other equipment used in  
2           farming.

3           (Source: P.A. 98-315, eff. 1-1-14; 99-631, eff. 1-1-17.)

4           Section 99. Effective date. This Act takes effect upon  
5           becoming law.